

PETROLEUM BROWNFIELDS ASSESSMENT GRANT FUNDING ELIGIBILITY FLOW CHART

SENATE Natural Resources

Exhibit No. 6

Date 2/18/15

Bill No. SB 355

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Is there reason to believe that petroleum products were dispensed, stored, or disposed of on the immediately adjacent to the site?

NO

Not Eligible

YES

Is the site relatively low risk:
a. Currently receiving LUST/Trust funds?
b. Subject to response under the Oil Pollution Act?

YES

NO

Has there been a judgment rendered, administrative order, enforcement action, or citizen or third party claim brought against the owner?

YES

Not Eligible

NO

MONTANA DEQ ELIGIBILITY REVIEW PROCESS

EPA ELIGIBILITY REVIEW PROCESS

Is there a Responsible Party (RP) as defined under state law?

1. Has a RP been identified by judgment, administrative order, or enforcement action?
2. Did the current owner dispense or dispose of petroleum at the site, regardless of whether contamination was created?
3. Did the owner exacerbate contamination at the site?
4. Has the petroleum release been deemed Petrofund eligible?
5. Has the current owner taken reasonable steps with regard to the contamination (i.e. did owner fail to take actions as directed by DEQ)?

If all requirements are met

If any of requirements are not met

MDEQ VIABLE PARTY DETERMINATION

Is the responsible party financially capable of assessing and cleaning up the petroleum?
Financial viability is determined by MDEQ through review of 5 years of complicated financial records including income statements, financial data, and possibly an Auditors opinion

NO

YES

Eligible

Not Eligible

Is there a Responsible Party (RP) as defined under EPA brownfields guidance?

1. Has a RP been identified by judgment, administrative order, or enforcement action?
2. Did the current or immediate past owner dispense or dispose of petroleum which resulted in contamination at the site?
3. Did current or immediate past owner exacerbate contamination at site?
4. Has the current or immediate past owner take reasonable steps with regard to the contamination (i.e. did owner stop release and prevent future exposures)?

If all requirements are met

If any of requirements are not met

EPA VIABLE PARTY DETERMINATION

Is the responsible party financially capable of assessing and cleaning up the petroleum?

1. Is the site owned by an individual or entity that cannot afford the cleanup?

If Yes

If No

Eligible

Not Eligible

Note:

This flow chart presents the steps involved in obtaining the approval to use federal brownfields assessment grants on petroleum sites. A determination of brownfields funding eligibility in no way effects whether an owner is liable to assess a site under state law, but only whether federal brownfields grant funds can be used on the site to assess or cleanup the petroleum release.